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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,655	03/01/2004	Naohiro Tamura	1503.69885	9572

7590 08/18/2009  
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EXAMINER
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POWERS, WILLIAM S

ART UNIT	PAPER NUMBER
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2434

MAIL DATE	DELIVERY MODE
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08/18/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/790,655	<b>Applicant(s)</b> TAMURA ET AL.	
	<b>Examiner</b> WILLIAM S. POWERS	<b>Art Unit</b> 2434	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4/28/2009 have been fully considered but they are not persuasive.
2. As to Applicant's argument that, Talpade does not disclose "a notification unit notifying only a flow source that is one of the other communication networks of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user's communication network", the Examiner respectfully disagrees. The Examiner interprets the claim language that notification unit notifies a flow source as countermeasure planning place of unauthorized access, not a just a single source to mean that if there are multiple sources of unauthorized access each of those flow sources would be notified by the notification unit. The Applicant is directed to Talpade [0017] in which all the border and edge routers that are affected by a DDoS, particularly, "A DDoS attack against a customer, such as network 204, may originate from the Internet 208, peer autonomous systems 210 and 212, and/or from other customer networks 206 being serviced by ISP network 202" and become countermeasure planning places by redirecting DDoS traffic to the filter routers. The invention of the instant application is directed to protect customers from DDoS attacks. If the DDoS attack flows from several

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sources it would be within the scope of the claim language to issue notifications to each of the flow sources of the unauthorized access(es) and make each of the border or edge routers serving those flow sources countermeasure planning place. If only a single flow source were notified, but not the other flow sources, the customer would not be protected. For at least the reasons above, the rejection to the claims is maintained.

### ***Response to Amendment***

3. The Examiner has stated the below column and line numbers as examples. All columns and line numbers in the reference and the figures are relevant material and Applicant should take the entire reference into consideration upon the reply to this Office Action.

4. Claims 1, 2, 5, 13 and 26 have been amended.

5. Claims 3, 4 and 27 have been cancelled.

6. Claims 1, 2 and 5-26 are pending.

### ***Information Disclosure Statement***

7. The Information Disclosure Statement submitted 5/7/2009 has been considered by the Examiner.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1-2, 5-9, 12-18, and 22-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Talpade et al US PGPub 2004/0148520.

With regards to claims 1, 13, 18, 26, Talpade teaches a traffic recording unit recording information on traffic that flows into a user's communication network and arrives in a customer site (Talpade, paragraph 0020, tracks packets), an unauthorized access prevention system which resides within a user's communication network (Talpade, Abstract, when attack is detected, mitigate the attack), including: a search unit searching the flowing-in path of unauthorized access to services disclosed from the customer site to other communication networks adjacent to the user's communication network via the user's communication network (Talpade, paragraph 0017, sensor 204 detects an attack, traffic entering the customer network); a determination unit determining a place to implement a countermeasure for protecting the services from the unauthorized access based on the result of the search (Talpade, paragraph 0024, automatically mitigates attack by informing affected edge routers), and a notification unit notifying only a flow source that

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is one of the other communication networks of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user's communication network (Talpade, paragraph 0024, automatically mitigates attack by informing affected edge routers which are adjacent to customer network, Figure 2 Items 228 and 206).

With regards to claim 2, Talpade teaches a recording medium in which a program that directs a computer residing within a user's communication network to implement a countermeasure against unauthorized access is recorded and in which the program can be read by the computer, and the program directs the computer to perform the following processes by being executed by the computer (Talpade, paragraph 0019, host platform): a detection process of detecting an unauthorized access transmitted from a transmitter to services disclosed from a customer site to other communication networks adjacent to the user's communication network via the user's communication network (Talpade, paragraph 0017, sensor 204 detects an attack, traffic entering the customer network); a search process of searching the flowing-in path of the unauthorized access to the services disclosed from the customer's site (Talpade, paragraph 0017, sensor 204 detects an attack, traffic entering the customer network); a determination process of determining the place to implement the countermeasure for protecting the services from the unauthorized access based on the result of the search (Talpade, paragraph 0024, automatically mitigates attack by informing affected edge

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routers); and a notification unit notifying only a flow source that is one of the other communications networks of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user's communication network (Talpade, paragraph 0024, automatically mitigates attack by informing affected edge routers which are adjacent to customer network, Figure 2 Items 228 and 206).

With regards to claim 5, Talpade teaches the process of searching the flowing- in path is performed by the computer based on the monitoring information on the traffic transmitted by the user's communication network and the unauthorized access information indicating the contents of the unauthorized access (Talpade, paragraph 0020, searching is based upon all traffic entering customer network, searching looks at information in headers - sensor two).

With regards to claim 6, Talpade teaches the monitoring information includes at least the position information on an edge router arranged on the border between the user's communication network and the communication network adjacent to the user's communication network and the monitoring information on the traffic that flows into the user's communication network via the edge router (Talpade, paragraph 0020, position information - monitors all traffic entering a particular customers network, paragraph 0024, informs all border/edge routers for the customer network to reroute traffic).

With regards to claim 7, Talpade teaches the process of notifying the determination to the flow source after mutual attestation is conducted between the notification unit and the flow source of the unauthorized access is performed by the computer (Talpade, paragraph 0024, new routing information is sent to border/edge routers).

With regards to claim 8, Talpade teaches the process of notifying the determination to the flow source after information on a security policy for the operation of each network is exchanged with the flow source that transmits the unauthorized access is performed by the computer (Talpade, paragraph 0024, security policy in the form of new routing information is sent to border/edge routers).

With regards to claim 9, Talpade teaches information on a security policy is the information indicating the time required till the countermeasure against the unauthorized access is cancelled after the unauthorized access is not detected any more (Talpade, paragraph 0028, periodic polling to determine if attack has completed).

With regards to claim 12, Talpade teaches the process of notifying the flow source of the unauthorized access of the determination using the communication path that differs from the flowing-in path of the unauthorized access is performed by the computer (Talpade, paragraph 0023, notification is provided through IP tunnels).



With regards to claim 14, Talpade teaches the judgment is made based on the judgment information on the flow source that is given in advance (Talpade, paragraph 0020, judgment whether to send notification determined from sensor findings in advance of sending notification).

With regards to claim 15, Talpade teaches that by having the program executed by the computer; the unauthorized access countermeasure implementation control process that has the countermeasure for protecting the services from the unauthorized access implemented in the user's communication network based on the determination that said countermeasure is implemented in the user's communication network is performed by the computer (Talpade, paragraph 0024, implemented by analysis engine and filter router).

With regards to claim 16, Talpade teaches the process of implementing the countermeasure in the POP (point of presence) edge router to which the flow source of the unauthorized access is connected is performed by the computer (Talpade, paragraph 0024, new routing information is sent to border/edge routers).

With regards to claim 17, Talpade teaches the process of identifying the POP edge router to which the transmitter that transmits the unauthorized access is connected based on the information obtained from the operation management system

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that manages the operation of the user's communication network is further performed by the computer (Talpade, paragraph 0024, analysis engine/ISP manager/filter routers determine provide new routing tables to mitigate attack).

With regards to claim 22, Talpade teaches that by having the program executed by the computer; the process-of obtaining a notification of the determination that unauthorized access to the services disclosed from a communication network different from the user's communication network is made to flow into said other communication network is performed by the computer (Talpade, paragraph 0017, sensor 204 detects an attack, traffic entering the customer network); the process of searching the flowing-in path of the unauthorized access related to the notification in the user's communication network when the notification is obtained by the notification obtaining process is performed by the computer (Talpade, paragraph 0017, sensor 204 detects an attack); the process of determining the place to implement the countermeasure for protecting the services disclosed from said other communication network from the unauthorized access related to the notification based on the result of the search when the notification is obtained by the notification obtaining process is performed by the computer (Talpade, paragraph 0024, analysis engine/ISP manager/filter routers determine provide new routing tables to mitigate attack), and the process of notifying, according to a determination that the countermeasure is implemented in the flow source that makes the unauthorized access related to the notification flow into the user's communication network when the notification is obtained by the notification obtaining process, the

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determination to the flow source is performed by the computer (Talpade, paragraph 0024).

With regards to claim 23, Talpade teaches that by having the program executed by the computer; the unauthorized access countermeasure implementation control process that has the countermeasure for protecting the services disclosed from the user's communication network or the other communication network from the unauthorized access related to the notification implemented in the communication network of the notification source of the notification when the notification obtained by said notification obtaining process is the same as that obtained in the past is further performed by the computer (Talpade, paragraph 0024, countermeasures for all attacks created by implementing new routing information that is sent to the border and edge routers).

With regards to claim 24, Talpade teaches the process of notifying the information that uniquely identifies the unauthorized access related to the notification when the determination is notified is performed by the computer (Talpade, paragraph 0022, notification of attack is sent by sensor).

With regards to claim 25, Talpade teaches having the program executed by the computer; the process of recording the history of the notification is further performed by

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the computer (Talpade, paragraph 0028, record of notifications stored such that analysis engine can later determine if the attack is completed).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10-11, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talpade et al US PGPub 2004/0148520 in view of Kaler et al US PGPub 2004/0003286.

With regards to claim 10, Talpade fails to teach that the time indicated by the information on the security policy differs between the user communication network and the flow source, a shorter time of the two is used as the time required till the countermeasure against unauthorized access is cancelled after the unauthorized access is not detected any more. However, Kaler teaches that the time indicated by the information on the security policy differs between the user communication network and the flow source, a shorter time of the two is used as the time required till the countermeasure against unauthorized access is cancelled after the unauthorized

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access is not detected any more (Kaler, paragraph 0036, time period for countermeasures if predefined in the threat source). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Kaler's method of timing countermeasures because it offers the advantage of increasing security and efficiency by allowing a countermeasure's time of enactment to be dependent upon the severity of the attack (Kaler, paragraph 0036).

With regards to claim 11, Talpade as modified teaches the process of notifying the flow source of the determination and the information indicating the time required till the countermeasure against the unauthorized access is cancelled after the unauthorized access is not detected any more is performed by the computer (Kaler, paragraph 0036, time period for countermeasures if predefined in the threat source, paragraph 0021, computer device).

With regards to claim 19, Talpade teaches the countermeasure implemented by the unauthorized access countermeasure implementation control process is cancelled after the unauthorized access is not detected any more (Talpade, paragraph 0028, determine when the attack is completed), but fails to teach a preset time. However, Kaler teaches a preset time for cancellation of countermeasures (Kaler, paragraph 0036, time period for countermeasures if predefined in the threat source). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Kaler's method of timing countermeasures because it offers the advantage

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of increasing security and efficiency by allowing a countermeasure's time of enactment to be dependent upon the severity of the attack (Kaler, paragraph 0036).

With regards to claim 20, Talpade as modified teaches the preset time is set based on the security policy on the network operation of both the user's communication network and the other communication network (Kaler, paragraph 0036, time period for countermeasures if predefined in the threat source depending on severity of the threat).

With regards to claim 21, Talpade as modified teaches that when the times set between the user's communication network and the other communication network based on the security policy on the network operation of both networks differ between both networks, the countermeasure is cancelled after the unauthorized access is not detected any more and a shorter time of the two passes (Talpade, paragraph 0028, determine when the attack is completed, Kaler, paragraph 0036, time period for countermeasures if predefined in the threat source).

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM S. POWERS whose telephone number is (571)272-8573. The examiner can normally be reached on m-f 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. S. P./  
Examiner, Art Unit 2434

William S. Powers  
Examiner  
Art Unit 2434

8/12/2009

/Michael J Simitoski/  
Primary Examiner, Art Unit 2439